IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 15TH MARCH 2007 / 24TH PHALGUNA 1928

OP.No. 8936 of 2002(L)

PETITIONER:

K.K.HANSAL, KUDILIL HOUSE,
CANAL JEEP ROAD, ALUVA.

BY ADV. SRI.P.K.MEETHIYAN KUNJU

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO GOVERNMENT,LOCAL SELF GOVERNMENT
DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.

2. ALUVA MUNICIPALITY, REPRESENTED BY ITS
SECRETARY, MUNICIPAL OFFICE, ALUVA.

R2 BY ADV. SRI.V.M.KURIAN
SRI.A.V.THOMAS
SRI.MATHEW B. KURIAN
SRI.K.T.THOMAS

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 15/03/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ORDER ON C.M.P. NO.15936/2002 IN O.P. NO.8936/2002

DISMISSED:

15.3.2007 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF LICENECE ISSUED ON 12.12.95 BY R2 TO THE PETITIONER.

P2: TRUE COPY OF JUDGMENT DT.9.6.2000 IN O.P. 14718/1998 PASSED BY THIS HON'BLE COURT.

P3: TRUE COPY OF ORDER DT.25.5.2001 PASSED BY THE GOVERNMENT.

P4: TRUE COPY OF THE REVISION PETITION DT.28.8.2001 SUBMITTED BY PETITIONER.

RESPONDENT'S EXHIBITS:

R2(a): TRUE COPY OF REPLY LETTER DT.25.2.97 SUBMITTED BY PETITIONER.

R2(b): TRUE COPY OF THE FINAL ORDER DT.5.3.97 PASSED BY MUNICIPALITY.

R2(c): TRUE COPY OF LETTER DT.20.7.98 ISSUED BY R1.

R2(d): TRUE COPY OF LETTER DT.28.8.2001 ISSUED BY R1.

R2(e): TRUE COPY OF LETTER DT.15.3.2002 ISSUED BY R1.

R2(f): TRUE COPY OF NOTICE DT.23.3.2002 ISSUED BY MUNICIPALITY TO THE PETITIONER.

TRUE COPY

P.S. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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O.P. No.8936 of 2002

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Dated this the 15th day of March, 2007.

JUDGMENT

The petitioner is challenging Ext.P3 order whereunder the Government has rejected petitioner's application for regularisation of unauthorised construction. Counsel for the Municipality submitted that on complaint filed by another neighbour about pollution, petitioner's unit is closed. If the industry is closed, then I see no reason why petitioner should retain the unauthorised shed constructed by him. In the circumstances, it is for the petitioner to demolish the authorised construction as demanded by the Municipality. However, if industry is continuing, then I feel the petitioner should be allowed to retain the shed on payment of compounding fee for regularisation of the construction. Government is directed to regularise the construction on petitioner remitting the compounding fee provided petitioner continues the industry now. If payment is not made within one month from today for regularisation of unauthorised construction, the Municipality can proceed for demolition.

The O.P. is disposed of as above.

C.N.RAMACHANDRAN NAIR
Judge

pms